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STATE OF MARYLAND



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March 3, 1981

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Report on Senate Bill 1026
Titles 20 and 21 of the Health
Occupations Article

The Commission to Revise the Annotated Code has prepared this bill as part of its continuing formal bulk revision of the Annotated Code of Maryland. This bill would add two additional titles to the Health Occupations Article: Title 20, "Waterworks and Waste Systems Operators", and Title 21, "Well Drillers". Responsibility for these occupations was transferred from the Department of Natural Resources to the Department of Health and Mental Hygiene by Executive Order effective July 1, 1980.

Titles 20 and 21 follow the same organization as Titles 2 through 19 of the Health Occupations Article and are subject to the same general comments. See the Report on House Bill 1, dated October 27, 1980. Titles 20 and 21 also use the definitions and general provisions contained in Title 1 of the Health Occupations Article.

As discussed fully in the previous report on House Bill 1, the basic thrust of the Commission's work is formal; the primary purpose of its work is modernization and clarification, not policy making. Nevertheless, at some points in its work, the Commission finds it necessary to make recommendations that involve the substance of the law. The Commission has made every effort to ensure that its recommendations conform as nearly as possible to the intent of the legislature, and the revisor's notes to the

appropriate section explain each change made and the reasons for it. This report will highlight the significant issues addressed in Titles 20 and 21 of the Health Occupations Article.

The drafts of these titles were prepared by Assistant Revisor Joseph Bernstein and Associate Legislative Analyst Patricia D. Storch of the Commission staff and reviewed in the same manner as the rest of the Article. A description of this procedure and a list of the many who have contributed to it are described on pp. 4-5 of the Report on House Bill 1.

Title 20. Waterworks and Waste Systems Operators.

Title 20 contains the provisions governing the State Board of Waterworks and Waste Systems Operators and the provisions regulating the employment of superintendents, operators, and industrial operators in waterworks, wastewater works, and industrial wastewater works. Title 20 is similar to Health Occupations Titles 16, "Psychologists", and 17, "Sanitarians", as they all involve certification rather than licensing. However, Title 20 is unique in that the Secretary of Health and Mental Hygiene adopts all of the rules and regulations under which this Board operates.

The General Revisor's Note to the Title 20 (pages 26 - 27) explains the conflicts between Ch. 27, Acts of 1980, the Executive Order that transferred certain environmental areas of State Government from the Department of Natural Resources to the Department of Health and Mental Hygiene, and Ch. 617, Acts of 1980, which was a product of the Joint Sunset Committee. That note also explains why the Commission decided to follow the language of Ch. 27, Acts of 1980, the earlier enactment, where these conflicts appear. Consequently, obsolete references to the Secretary of Natural Resources and the Department of Natural Resources are deleted and revised accordingly in Title 20. See §§ 20-202, 20-205, 20-301, 20-310, and 20-404.

In §§ 20-102(b) and 20-201, the name of the Board is shortened in response to a suggestion from the General Assembly. The Board agrees with this change. See page 4, line 216 and page 9, line 486.

In § 20-201, the phrase "in the Department" is added to avoid any question of jurisdiction over the Board. See page 9, lines 486 and 508 - 12.

In § 20-202(c)(2), the stagger created by the terms of the members currently appointed to the Board is substituted for the stagger that follows from a literal reading of the

present law. See page 11, lines 618 - 22.	80
Each of the boards that are addressed in Title 2 through 19 of the Health Occupations Article include at least one consumer member. Most of these members were added by Ch. 702, Acts of 1980, and, where a board already included a consumer member, that Act conformed the qualifications for that member to those for the newly created positions. However, no consumer members are included on this Board or on the State Board of Well Drillers. The General Assembly may wish to add provisions for these members in §§ 20-202 and 21-202.	82 83 84 85 86 87 88
In § 20-310, the Commission substituted the general appeal process used in the other health occupations in this article for the unique provisions of present Art. 43, § 406A(f)(9), which allow the Secretary of Health and Mental Hygiene or the Department of Natural Resources to review particular disciplinary actions by the Board. This change was made for uniformity and with the agreement of all parties involved. See the revisor's note to § 20-310 on page 22, lines 1194 - 1206.	90 91 92 93 94 95 96
Section 20-404(b), which relates to funding for a training center, is revised to conform to constitutional requirements. Further clarification by the General Assembly may be appropriate. See the revisor's note on page 24, lines 1305 - 07.	98 99 100 101
<u>Title 21. Well Drillers.</u>	103
Title 21 governs the licensing and regulation of well drillers by the State Board of Well Drillers.	105 106
The occupation of well drilling differs significantly from other occupations under the jurisdiction of the Department of Health and Mental Hygiene in that the practice does not deal with individuals. The revision preserves the present statutory possibility of licensing businesses as well as individuals. See §§ 21-301 and 21-501.	108 109 110 111 112
Title 21 also differs in that the terms of the members of this Board are not staggered, there are no express qualifications for a license, and there is no express requirement to pass an examination before being licensed. See §§ 21-202, 21-302, and 21-304.	114 115 116 117
To resolve ambiguities as to a required bond, the revision clarifies that the Board requires a performance bond and contractor's liability insurance but leaves the specifics as to when the bond is required and which licensees must be covered to the regulations of the Board.	119 120 121 122

See §§ 21-206, 21-306, 21-308(c), and 21-309.

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To resolve a possible constitutional defect, the revision substitutes a power of the Board to designate a termination date on a temporary license for the present power of the Board to terminate a temporary license "at any time". See § 21-309(e) on page 45 and the revisor's note on page 46 beginning at line 2467.

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In §§ 21-310 through 21-312, the Commission expanded the express provisions of the present law that relate to enforcement, hearings, and appeals. The revision better fits the scheme of the Administrative Procedure Act, which the Commission understands to represent the General Assembly's intent. See page 14 of the Report on House Bill 1.

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The General Revisor's Note to this title and the revisor's note to § 21-101(d) point out potential problems with the scope of the definition of "person" in this title. That definition presently includes the federal and State governments.

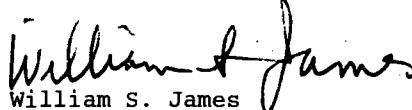
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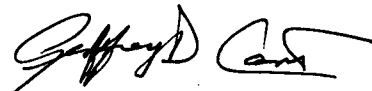
Respectfully submitted,

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William S. James
Chairman

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Geoffrey D. Cant
Director

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